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10/589,062

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Rolf Lehmann

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EXAMINER

NICHOLS II, ROBERT K

ART UNIT

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3754

MAIL DATE

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11/16/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|--------------------------------------|--------------------------------------|--|
| Office Action Summary | Application No. 10/589,062 | Applicant(s) LEHMANN, ROLF | |
| | Examiner ROBERT NICHOLS II | Art Unit 3754 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ An election was made by the applicant in response to a restriction requirement set forth during the interview on ____; the restriction requirement and election have been incorporated into this action.
- 4) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 5) ☒ Claim(s) 1-23 is/are pending in the application.
- 5a) Of the above claim(s) 2-14 is/are withdrawn from consideration.
- 6) ☒ Claim(s) 21 and 22 is/are allowed.
- 7) ☒ Claim(s) 1, 15-20 and 23 is/are rejected.
- 8) ☐ Claim(s) ____ is/are objected to.
- 9) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 10) ☐ The specification is objected to by the Examiner.
- 11) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 12) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>04/04/2011</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Response to Amendment

This office action is responsive to the amendment filed on 12/13/2010. As directed by the amendment: claims 1 and 18-20 have been amended, no claims have been cancelled, and new claims 21-23 have been added. Thus, claims 1 and 15-23 are treated on the merits.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 15-20 and 23 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Claim 1 recites "the drive motor and the transmission means configured to directly drive the drive axle of the dosing means and directly drive the axle of the agitator" in lines 9-11. It is noted that applicant disclosure discloses that the drive wheel 30 directly drives a driven wheel 6 to drive the drive axle of the dosing means 4 (see figs. 6 and 8b). The drive motor 25 and/or transmission means does not directly drive the drive axle of the dosing means 4, the drive axle is

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driven through wheel 30 and wheel 6 (see fig. 8b). Thus, Applicant's disclosure is silent to the teaching of the drive motor and/or transmission means being configured to directly drive the drive axle of the dosing means.

Claim 20 recites "the drive unit directly coupled to the dosing means" in lines 9-10. Applicant's drive unit is coupled directly to a wheel 6 of the dosing means 4 (see fig. 8b). Applicant's disclosure is silent to the teaching of the drive unit directly coupled to the dosing means.

Claim 23 recites "the drive unit being coupled directly to the drive axle" in line 5. Applicant's drive unit is parallel to the drive axle, being coupled to the dosing axle via a wheel 6 on the drive axle (see fig. 8b). Applicants' disclosure is silent to the drive unit being coupled directly to the drive axle.

Appropriate correction required.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 15-20 and 23 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1 recites "the drive motor and the transmission means configured to directly drive the drive axle of the dosing means and directly drive the axle of the agitator" in lines 9-11. As claimed it is unclear as to whether the drive motor and the transmission means together directly drive the drive axle of the dosing means and directly drive the axle of the agitator, or whether the drive motor separately drives directly

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one of the drive axle or axle of the agitator and the transmission means separately drives directly one of the drive axle or axle of the agitator.

Appropriate correction required.

Claim 20 recites “the drive unit directly coupled to the dosing means” in lines 9-10. Applicant’s drive unit appears to be coupled directly to a wheel 6 of the dosing means 4 (see fig. 8b).

Appropriate correction required.

Claim 23 recites “the drive unit being coupled directly to the drive axle” in line 5. Applicant’s drive unit appears to be parallel to the drive axle, being coupled to the dosing axle via a wheel 6 on the drive axle (see fig. 8b). Thus, the drive unit is not directly coupled to the drive axle.

Appropriate correction required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 20 and 23 are rejected under 35 U.S.C. 102(b) as being anticipated by Shiotani et al. (US 4,796,440).

Regarding claim 20, as best understood Shiotani discloses a device including a dosing unit having a dosing module 31a/31b including a dosing

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means 31b (see fig. 6), the dosing means 31b including a drive axle 31a; a container 25; and an agitator 61 within the container 25, the agitator 61 having an axle perpendicular to the drive axle 31a of the dosing means 31b (see fig. 6 and col. 5, line 65 - col. 6, line 3); and a drive unit 5 having a drive motor 17 and a transmission means (see figs. 1 and 2), the dosing module 31a/31b being detachable and reconnectable with the drive unit 5 (see fig. 1 and col. 2, lines 65-68 and col. 7, lines 33-36), the drive unit 5 directly coupled to the dosing means 31b, directly coupled to the axle of the agitator 61 and configured to drive the drive axle 31a of the dosing means 31b and the axle of the agitator 61 when the dosing module 31a/31b is connected with the drive unit 5 (see figs. 1, 2 and 8, and col. 5, line 63 – col. 6, lines 3).

Regarding claim 23, as best understood Shiotani further discloses the drive unit 5 directly coupled to the drive axle 31a of the dosing means 31b, coupled directly to the agitator 61 and configured to drive the drive axle 31a and axle of the agitator 61 when the dosing module 31a/31b is connected with the drive unit 5, wherein the dosing module 31a/31b is detachable and reconnectable with the drive unit 5 (see fig. 1 and col. 2, lines 65-68 and col. 7, lines 33-36).

With further regards to claims 20 and 23, with respect to the recitation “for dosing bulk material” it is noted that the material of Shiotani (i.e. ice cream) is considered a bulk material. Notwithstanding, it is noted that “a recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus” if the prior art apparatus teaches all the structural limitations of the claim. Ex parte

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Masham, 2 USPQ2d 1647 (Bd. Pat. App. & Inter. 1987). Furthermore, the Examiner notes that the patentability is not restricted by the material being handled. See MPEP 2115.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 15, 16 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dickinson (US 3,536,210) in view of Long (US 3,151,749).

Regarding claim 1, as best understood Dickinson discloses a device including a dosing unit having a dosing module 18 including a dosing means 10, the dosing means 10 including a drive axle (see figs. 1 and 2); a container 14 for the bulk material (see figs. 1 and 3); and an agitator 44 within the container 14 (see figs. 1 and 3), the agitator 14 having an axle 42 perpendicular to the drive axle of the dosing means 10 (see figs. 1 and 2); and a drive unit having a housing accommodating a drive motor 36 and a transmission means (see figs. 1 and 2), the drive motor 36 and the transmission means configured to directly drive the drive axle of the dosing means 10 and directly drive the axle 42 of the agitator 44 (see fig. 2). It is noted that the axle of the agitator is directly driven in as much as applicants i.e. via a driven wheel 40 (see fig. 2).

Regarding claim 15, Dickinson discloses a single motor 36 drives the agitator 44 and the dosing means 10 (see figs. 1 and 2).

Regarding claim 16, Dickinson discloses the drive axle (dosing means 10 axle) rotates about a first axis, the drive motor 36 rotates a drive wheel (upper wheel in fig. 1 above wheel 32) about a second axis (see figs. 1 and 2), and the axle 42 of the agitator 44 rotates about a third axis (see fig. 2), the first and second axes being substantially parallel to one another and each substantially orthogonal to the third axis in the operating state (see fig. 2).

Regarding claim 19, Dickinson discloses the drive wheel drives a driven wheel 32 on the drive axle (dosing means 10 axle; see fig. 2).

With further respect to claim 1, Dickinson discloses all the elements of the claimed invention except the dosing module being detachable and reconnectable with the housing.

Long teaches a device including a dosing unit including a dosing module 19 having a dosing means 18 including a drive axle 17 (see fig. 2); and a drive unit 22 having a housing, the housing accommodating a drive motor 34 and a transmission means (see fig. 2), wherein the dosing module 19 is detachable and reconnectable with the housing of the drive unit 22, for providing a quick connection and disconnection power plant susceptible of use with a number of such bins instead of a power plant for each bin (see fig. 2 and col. 2, lines 10-15).

Thus, one of ordinary skill in the art would recognize that the known option of providing the dosing module being detachable and reconnectable with the housing involves only routine skill in the art, for the predictable result of providing

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a quick connection and disconnection power plant susceptible of use with a number of such containers instead of a power plant for each container.

Allowable Subject Matter

Claims 21, 22 are allowed. Claims 17 and 18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, first and 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments submitted under "Remarks" in the response filed on 12/13/2010 have been fully considered but are moot in view of the new rejections made in this action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. N./
Examiner, Art Unit 3754

/KEVIN P. SHAVER/
Supervisory Patent Examiner, Art
Unit 3754